

OCT 15 2020

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Attorney for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF VENTURA

ERICA JHU,

Plaintiff,

vs.

ERIC WALLACE, M.D.; VENTURA
COUNTY MEDICAL CENTER/SANTA
PAULA HOSPITAL; RENAISSANCE
IMAGING; and DOES 1 to 50

Defendants.

) CASE NO.

)
) [Assigned to
) Dept.]

) COMPLAINT FOR PROFESSIONAL
) NEGLIGENCE

PLAINTIFF, ERICA JHU, alleges as follows:

1. Plaintiff, ERICA JHU is an individual and is now, and at all times mentioned herein was, a resident of the County of Ventura, State of California.

2. Defendant, ERIC WALLACE, M.D., (herein after referred to as WALLACE), is and at all times herein mentioned was, a duly licensed physician licensed by the State of California and doing business in the County of Ventura, State of California. At all times mentioned herein, WALLACE was the employee, agent or representative of Renaissance Imaging Center and, at all times mentioned herein was,

1 acting within the course and scope of such employment, agency or representation.

2 3. Defendant, VENTURA COUNTY MEDICAL CENTER/SANTA PAULA
3 HOSPITAL, (hereinafter referred to as VCMC/SPH), is now, and at all times herein
4 mentioned was, a business entity form unknown, with its principal place of business in
5 the County of Ventura, State of California.

6 4. Defendant, RENAISSANCE IMAGING CENTER, (herein after referred to
7 as RENAISSANCE), is and at all times mentioned herein was, a business entity, form
8 unknown, duly licensed by the State of California with its principal place of business in
9 the County of Ventura, State of California.

10 5. Does 1 through 50 are and were nurses, medical assistants and other
11 such medical staff, duly licensed by the State of California and, at all times mentioned
12 herein, were employed by VCMC/SPH and acting within the course and scope of such
13 employment.

14 6. Plaintiff does not know the true names and capacities of the defendants
15 DOES 1 through 50, inclusive, and therefore sues them by said fictitious names.
16 Plaintiff will seek leave of Court to amend this Complaint to allege their true names and
17 capacities when ascertained. Plaintiff is informed and believes and upon such
18 information and belief, alleges that, at all times relevant herein, each of the fictitiously
19 named defendants was in some manner negligent and legally responsible for the events
20 and happenings and for the resulting injuries alleged in this complaint. Wherever
21 appearing in this Complaint, each and every reference to "Defendant", is intended and
22 shall be a reference to all Defendants in this action, and each of them, including but not
23 limited to all fictitiously named Defendants.

24 7. Plaintiff is informed and believes, and thereon alleges, that each of the
25 Defendants named herein, fictitiously or otherwise, was at all relevant times, the agent,
26 employee, alter ego, or representative of the remaining Defendants, and while
27 committing the acts and omissions herein alleged, were at all times acting within the
28 scope of such agency, employment, alter ego or representation, and that Defendants

1 and each of them, combined and conspired to do each of the things hereinafter alleged
2 and are jointly and severally liable for the acts and omissions complained of herein.

3 8. On or about, June 29, 2020, Plaintiff served upon Defendants and each
4 of them, notice of intent to sue Defendants for professional medical malpractice
5 pursuant to California Code of Civil Procedure Section 364.

6 9. Plaintiff filed a Governmental Claim form with the County of Ventura on
7 July 20, 2020 that expired by operation of law on August 31, 2020.

8 10. On or about July 13, 2019, plaintiff was involved and injured in an
9 automobile accident. As a result of that accident, plaintiff underwent surgical repair of
10 her lumbar spine for a fractured vertebra on September 27, 2019 at VCMC/SPH. Said
11 surgery was performed by WALLACE.

12 11. Defendants, and each of them, inclusive, either during or after performing
13 said lumbar surgery permitted a foreign object to remain inside of plaintiff's body, near
14 her spinal cord. Plaintiff was unaware that the foreign body was left inside her at the
15 time.

16 12. On or around January of 2020, Plaintiff lost all feeling and movement in
17 her right leg and went in to VCMC/SPH for an exam. An MRI was requested and
18 performed on January 6, 2020. Plaintiff was informed on February 6, 2020 that a foreign
19 object that was left in her back from the September 27, 2019 surgery and that a second
20 surgery was required to remove it. Said MRI was the first notice plaintiff had that the
21 Defendants' conduct, and each of them, fell below the standard of care in the
22 community.

23 13. At all times herein mentioned, Defendants, and each of them, owed a duty
24 of care to plaintiff to ensure the competence of their staff physicians, nurses and other
25 treating medical practitioners and would use reasonable care in selecting said staff
26 physicians and other medical practitioners as well as a duty to exercise due care in the
27 diagnosis, care and treatment of Plaintiff.

28 14. At all times mentioned herein, Defendants and each of them, inclusive,

1 failed to possess and exercise in both diagnosis, and treatment that reasonable degree
2 of knowledge and skill that is ordinarily possessed and exercised by other nurses,
3 physicians, surgeons and other medical providers in the same or similar circumstances
4 in that among other things, they failed to properly and accurately assess Plaintiff's
5 medical condition and failed to properly perform certain standard medical procedures
6 to prevent a foreign object to remain in a patient's body after surgery was performed,
7 and as a direct result thereof, they breached the duties of care owed to their patient,
8 the Plaintiff herein.

9 15. As a direct and proximate cause of the breach of the standard of care by
10 the Defendants and each of them, Plaintiff did not receive proper and competent
11 medical attention and treatment and was injured and damaged in an amount that will
12 be established according to proof.

13 16. As a direct and proximate caused of the Defendants, and each of them
14 breaching the standard of care in the community with respect to their care and treatment
15 of Plaintiff, Plaintiff was caused to undergo a second surgery on May 20, 2020 and
16 thereby incurred medical expenses in an amount according to proof.

17 17. As a direct and proximate cause of the Defendants and each of them
18 breaching the standard of care in the community with respect to their care and treatment
19 of Plaintiff, plaintiff incurred and will continue to incur a loss of income in an amount
20 according to proof.

21 18. As a direct and proximate cause of the Defendants and each of them
22 breaching the standard of care in the community with respect to their care and treatment
23 of Plaintiff, Plaintiff sustained general damages consisting of fear, anxiety, mental and
24 emotional distress, pain and discomfort and will continue to sustain said general
25 damages into the future in an amount according to proof.

26
27 WHEREFORE, Plaintiff prays for damages as follows:

28 1. General damages according to proof;

- 1 2. Special damages for medical expenses and lost income according to
2 proof;
3 3. Interest according to law;
4 4. Costs of suit incurred;
5 5. Any other relief the Court deems just and proper.

6
7 Dated: October 13, 2020

LAW OFFICE OF WABBY & WABBY

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9 By: Walter J. Wabby
10 WALTER J. WABBY, ESQ.
11 Attorney for Plaintiff
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